

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

GEORGE H. FINK,

Petitioner,

v.

ROBERT GILMORE, and
PA STATE ATTORNEY GENERAL,

Respondents.

No. 3:16-CV-01867

(Judge Brann)

(Magistrate Judge Carlson)

ORDER

DECEMBER 30, 2019

George H. Fink, a Pennsylvania state prisoner, filed a 28 U.S.C. § 2254 petition seeking to vacate his convictions and sentence.¹ In his petition, Fink asserts that his *Miranda*² rights were violated, and that his trial counsel was ineffective in several respects.³ On October 1, 2019, Magistrate Judge Martin C. Carlson issued a Report and Recommendation recommending that this Court deny the petition.⁴ Fink sought and received an extension of time to file objections to the Report and

¹ Doc. 1.

² *Miranda v. Arizona*, 384 U.S. 436 (1966).

³ Doc. 1.

⁴ Doc. 36.

Recommendation.⁵ Objections were thus due on December 16, 2019, but no timely objections were filed.

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.⁶ Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the findings or recommendations made by the magistrate judge.⁷ After reviewing the record, the Court finds no error—clear or otherwise—in Magistrate Judge Carlson’s conclusion that Fink’s petition is without merit. Consequently, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Martin C. Carlson’s Report and Recommendation (Doc. 36) is **ADOPTED**;
2. Fink’s 28 U.S.C. § 2254 petition (Doc. 1) is **DENIED**;
3. The Court declines to issue certificate of appealability;⁸ and
4. The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

United States District Judge

⁵ Docs. 37, 38.

⁶ Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

⁷ 28 U.S.C. § 636(b)(1); Local Rule 72.31.

⁸ *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (setting forth legal standard).